

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JEREMY HARDY,

Plaintiff,

vs.

ANSWER & JURY DEMAND

Case No. 1:10-cv-01040 (RJA)

LAW OFFICE OF COHEN & SLAMOWITZ,
LLP,

Defendant.

Defendant, LAW OFFICE OF COHEN & SLAMOWITZ, LLP, by and through its attorneys, Smith, Sovik, Kendrick & Sugnet, P.C., in answer to plaintiff's Verified Complaint and Demand for Jury Trial, states the following:

1. Paragraph "1" of plaintiff's Verified Complaint contains plaintiff's characterizations of his claims. No response is required. To the extent a response is required, defendant **ADMITS** that plaintiff has brought this action pursuant to 15 U.S.C. §1697, et seq.

2. **DENIES KNOWLEDGE AND INFORMATION** sufficient to form a belief as to the allegations contained in paragraph "2" of plaintiff's Verified Complaint.

3. **ADMITS** the allegations contained in paragraphs "3", "4" and "5" of plaintiff's Verified Complaint.

4. Paragraph "6" of plaintiff's Verified Complaint contains conclusions of law. No response is required. To the extent a response is required, defendant states that, to the extent plaintiff claims defendant's employees acted in a manner which violated the FDCPA or other relevant statutes or regulations, such actions, if any, were beyond the scope of such employment with defendant. Defendant otherwise **DENIES KNOWLEDGE AND INFORMATION**

regarding plaintiff's claims in paragraph "6" of plaintiff's Verified Complaint.

5. Paragraphs "7", "8" and "9" of plaintiff's Verified Complaint contains conclusions of law. No response is required. To the extent a response is required, defendant **ADMITS** that this court has jurisdiction to hear this matter.

6. **DENIES KNOWLEDGE AND INFORMATION** sufficient to form a belief as to the allegations contained in paragraphs "10" and "11" of plaintiff's Verified Complaint.

7. **DENIES** the allegations contained in paragraphs "12" and "13" of plaintiff's Verified Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. Plaintiff's Verified Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. Plaintiff has failed to mitigate his damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. Upon information and belief, plaintiff's cause of action may not be maintained because the statute of limitations for one or more of plaintiff's claims has expired.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

11. Defendant did not violate, in whole or in part, any provision of the FDCPA.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

12. To the extent that a violation of 15 U.S.C. §1692 may later be determined to have occurred, such violation was not intentional and resulted from a bona fide error notwithstanding reasonable procedures adopted to avoid any such error.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

13. Plaintiff is precluded by the doctrine of waiver and estoppel.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

14. Any damages claimed are barred and/or circumscribed by 15 U.S.C. §1692(k).

JURY DEMAND

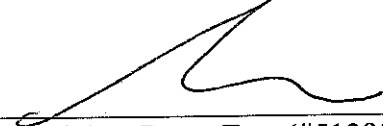
15. Demand is made for a jury trial on all issues.

WHEREFORE, defendant demands judgment dismissing plaintiff's Verified Complaint, together with the costs and disbursements of this action.

DATED: February 7, 2011.

SMITH, SOVIK, KENDRICK & SUGNET, P.C.

By: _____


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